

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Crl.MC.No. 517 of 2003()

CMP.2289/2002 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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PETITIONER:

KERALA STATE REP.BY THE EXCISE
INSPECTOR, EXCISE RANGE OFFICE, ERNAKULAM.

BY PUBLIC PROSECUTOR

RESPONDENTS:

1. AJAIKUMAR T.K., AGED, 45 YEARS,
MEMBER CENTRY CLUB, VENNALA, ERNAKULAM DISTRICT
RESIDING AT H.NO.49/1013, EDAPPALY-24,
ERNAKULAM DISTRICT.
2. MR.MURALI K.K., AGED 48 YEARS,
MEMBER CENTRY CLUB VENNALA, ERNAKULAM DIST.,
RESIDING AT KANNANKERI, ADRESH NAGAR,
KAKKANAD, COCHIN-30.
3. SIBY CHAVARA, AGED 40 YEARS,
OF DO.DO. RESIDING AT 3RD FLOOR, NORTH PLAZA,
N.RAILWAY STATION ROAD, COCHIN-18.
4. JACOB MATHEW, AGED 55 YEARS, OF DO. DO.
RESIDING AT H.NO.34/672, PALLATHU, MANGALAM,
COCHIN-25.
5. SREENIVAS NARAYANAN, AGED 56 YEARS,
OF DO. DO. RESIDING AT 37/2755, SOBHASREE,
VYLOPPILLY LINE, AZAD ROAD, KALOOR, COCHIN-17.
6. ABU BENJAMIN, AGED 47 YEARS, DO. DO.
RESIDING AT CARRIER STATION QTRS, CARRIER
STATION ROAD, COCHIN-16.

7. VINAYKUMAR T., AGED 42 YEARS, DO. DO.
RESIDING AT VALLATT, VENNALA, COCHIN-28.
8. SAMUEL THOMAS, AGED 46 YEARS, DO. DO.
RESIDING AT MANALEL 2/27, JAUA NAGAR, MARADU.
9. THOMAS A.A., AGED 6 YEARS, DO. DO.
RESIDING AT ARAKKAL HOUSE, MAHILA SAMAJAM ROAD,
VENNALA.
10. CELESTINE BOSEE, AGED 38 YEARS, DO. DO.
RESIDING AT 64/2633 OLD NO.42/2024 ST.BENEDICT
ROAD, KOCHI-18.
11. JOSE ALPHONSE, AGED 48 YEARS, DO. DO.
RESIDING AT BHORIYAVELIYEL, SOUTH PARUR.
12. ANIYAN G.G., AGED 30 YEARS, DO. DO.
RESIDING AT FLAT NO.8D, J.M.CRESENT,
P.J.ANTONY ROAD, PALARIVATTOM.
13. LIJU PALLAM AGED 29 YEARS, DO. DO.
RESIDING AT PALLATH HOUSE, THAMMANAM.
14. JAIRAJA T.S., AGED 33 YEARS, DO. DO.
RESIDING AT A/34 CHOICE GARDENS, TCC N-NAGAR,
VYTTILA.
15. SABU JOSEPH, AGED 38 YEARS, DO. DO.
RESIDING AT NIRUPPUKATTIL HOUSE, CHEMBUMUKKU,
COCHIN-30.
16. HARIHARAN K.V., AGED 53 YEARS, DO. DO.
RESIDING AT SMITHA HOUSE, DEVANKULANGARA,
COCHIN-24.
17. SABU CYRIAC AGED 38 YEARS, DO. DO.
RESIDING AT MAPPILAPPARAMBIL HOUSE, '
LISIE HOSPITAL ROAD, COCHIN-18.
18. SUJITH CHANDRAN, AGED 34 YEARS, DO. DO.
RESIDING AT B-LB, GARDEN COURT APPARTMENTS,
ALINCHUVADU, COCHIN-24.
19. SUNNY K.I., AGED 41 YEARS, DO. DO.
RESIDING AT 15/3562, KUNNATHU HOUSE, POTAKUZHI,
COCHIN-16.

20. DR.MATHEW VARGHESE, AGED 45 YEARS,
DO. DO. RESIDING AT THOTTATHIL HOUSE,
SOUMY NAGAR, COCHIN-24.
21. BALASUBRAMANIAN R.G., AGED 33 YEARS,
DO. DO. RESIDING AT ALWARYA. 48/608/A 5TH CROSS
ROAD, COCHIN-26.
22. DR.JOHNSON K.G., AGED 50 YEARS, DO. DO.
RESIDING AT KUTTETHARAYIL HOUSE, B.M.C., COCHIN-21
23. PURUSHAN K., AGED 55 YEARS, DO. DO.
RESIDING AT REVATHI, CHATHANGATTU CROSS ROAD,
COCHIN-25.
24. SIMON ZACHARIAH, AGED 35 YEARS, DO. DO.
RESIDING AT XI/325, PULIKAL HOUSE, 1ST FLOOR,
VAZHAKKALA, COCHIN.
25. ANIL KUMAR M.R., AGED 32 YEARS, DO. DO.
RESIDING AT NAVARANGAM, COCHIN UNIVERSITY,
COCHIN-22.
26. MATHEW P.J., AGED 45 YEARS, DO. DO.
RESIDING AT 32/1652-A, POTTAMANIKKAL, COCHIN-25.
27. JOSEPH ANTONY, 38 YEARS, DO. DO.
RESIDING AT THENGIGE HOUSE, THOPPIL BMC P.O.
28. SAJU VARGHESE, AGED 40 YEARS, DO.DO.
RESIDING AT THACHATH HOUSE, ARAKKUNNAM P.O.,
ERNAKULAM DISTRICT.
29. SIMON K.P., AGED 53 YEARS, DO. DO.
RESIDING AT 23, SKY LINE, SPRING FIELD HOMES,
PADIVATTOM, COCHIN-24.
30. GEORGE MATHEW, AGED 55 YEARS, DO. DO.
RESIDING AT 35/2208, MADHAVAMANGALAM,
CHURCH ROAD, PALARIVATTOM, COCHIN-18.
31. JAMES ABRAHAM DO. RESIDING AT PALAKKAL
HOUSE, DO. DO. RESIDING AT PALAKKAL-166
CHEMBUMUKKU W., COCHIN-30.

BY ADV. SRI.C.C.THOMAS

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER ON CRL.M.P.NO.883/2003 IN CRL.M.C.NO.517/2003

CLOSED

SD/- K.R.UDAYABHANU, JUDGE

22/08/2007

\\TRUE COPY\\

K.R.UDAYABHANU, J.

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Crl.M.C.No.517 of 2003-D
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Dated this the 22nd day of August, 2007

O R D E R

The State has filed the Crl.M.C to quash the order of the court below in Crl.M.P.No.2289/2002 on an application filed under Section 451 Cr.P.C. The court below allowed the application.

2. The matter relates to the raid conducted in the premises of Century Club, Vennala, and the crime registered vide Crime No.21/2002 of Ernakulam Excise Range with respect to the offence under Section 55(a) of the Akbari Act. The contention of the petitioners therein was that when the alleged raid was conducted there was an interim order of this Court in O.P.No.32836/2000 restraining the respondents from interfering with the activities of the members of the petitioner club in its premises including the consumption of liquor by its members, their family and guests in the premises of the club. It is the case of the petitioners, numbering 31, that the liquor bottles seized

were purchased by them and kept at the club for their consumption. Altogether 79 bottles of Indian Made Foreign Liquor were allegedly seized. It is seen that the final report has been filed and the matter were tried as S.C.No.207/2005 in the court of Additional Sessions Judge, Ad hoc-I, Ernakulam. Of the three accused, two were absconding and the third accused stood acquitted as per judgment dated 07.03.2007. The acquittal was also based on the contention that the raid was conducted when there was an order of this Court restraining the police and excise officials from interfering in the activities of the members of the club including the consumption of liquor. The court below rejected the contention of the State that the order to release the liquor bottles to the petitioners cannot be issued as the case is a sessions case and it will have to be committed to the Sessions Court. That contention was rejected on the basis of the interim order of this Court in the original petition. I find that the above articles constituted the material objects produced in the Sessions Court. In the circumstances, the orders of the court below is set aside. The petitioners may apply before the sessions court for

the custody of the articles. The Crl.M.C is disposed of accordingly.

**K.R.UDAYABHANU,
Judge**

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Crl.M.C.No.517/2003-D

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K.R.UDAYABHANU, J.

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Crl.M.C.No.517 of 2003-D
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O R D E R

22nd August, 2007